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FILED

OCT 25 2010

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

RECEIVED

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

NILEX CORPORATION, on behalf of
 itself and the UNITED STATES,

Plaintiff,

v.

DGI-MENARD INC.; SETH
 PEARLMAN; ROGER BLOOMFIELD;
 and RICHARD ALLEN HAMMERS,

Defendants.

No. C 09-3723-CW

**UNITED STATES' NOTICE OF
 ELECTION TO INTERVENE;
~~PROPOSED~~ ORDER**

FILED UNDER SEAL

1. Pursuant to 31 U.S.C. §3730 (b)(4), the United States hereby notifies the Court of its decision regarding intervention in this False Claims Act *qui tam* action. The United States hereby elects to intervene in this action.

2. The parties are in the process of executing a settlement agreement in this case, but final signatures were not obtained by the October 15, 2010 intervention deadline.

3. A case management conference is scheduled for November 16, 2010. The United States anticipates that the settlement agreement will be finalized and signed in the near future, with Defendants' payment under the Settlement Agreement due ten calendar days after signature. After receiving payment of the settlement amount, the United States and the Relator will dismiss this action with prejudice. Accordingly, the United States anticipates filing a dismissal stipulation well in advance of November 16, 2010, and anticipates simultaneously requesting that the case

management conference be vacated.


4. We request that the Court unseal (a) the Relator's Complaint, (b) this Notice of Election and accompanying [Proposed] Order Lifting Seal, and (c) all other filings in this action occurring on or after today's date. All other contents of the Court's file in this matter (including, but not limited to any applications filed by the United States for extensions of the sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously entered in this matter), should remain under seal and not be made public or served upon the Defendants.

Date: October 15, 2010

Respectfully submitted,

MELINDA HAAG
United States Attorney

By:


SARA WINSLOW
Assistant United States Attorney
Attorneys for the United States of America

PROPOSED ORDER


Upon consideration of the United States' Notice of Election to Intervene, the Court rules as follows. IT IS ORDERED that:

1. The seal shall be lifted as to: the Relator's Complaint; this Order and the accompanying United States' and California's Notice of Election to Intervene; and all subsequent filings in this action.

2. All other previously filed contents of the Court's file in this action shall remain under seal and not be made public or served upon the Defendants.

Dated: _____

OCT 25 2010


HONORABLE CLAUDIA WILKEN
United States District Judge